

Message Text

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TO SECSTATE WASHDC 8448

INFO USMISSION GENEVA

C O N F I D E N T I A L SECTION 1 OF 2 BRASILIA 2462

E. O. 11652: GDS

TAGS: PFOR, PINT, PORG, BR

SUBJECT: HUMAN RIGHTS REPORTING

REFS: A. STATE 12320; B. BRASILIA 1078; C. STATE A-1045

SUMMARY: BRAZIL'S CONSTITUTION INCLUDES PROVISION FOR INDIVIDUAL AND POLITICAL RIGHTS, BUT SUCH "EXCEPTIONAL MEASURES" AS INSTITUTIONAL ACT NO. 5 GIVE THE EXECUTIVE BROAD AND VIRTUALLY UNCHECKED AUTHORITY IN THOSE AREAS. BRAZIL'S RECORD OF VIOLATIONS OF POLITICAL AND HUMAN RIGHTS IS WELL-ESTABLISHED, BUT THE SITUATION HAS BEEN IMPROVING, PARTICULARLY IN THE LAST YEAR: THE GEISEL ADMINISTRATION HAS ACHIEVED AN APPRECIABLE RELAXATION AND NORMALIZATION IN THE GENERAL POLITICAL AREA, AND HAS ALSO EASED SOME OF THE RESTRICTIONS ON THE PRESS AND LABOR. "DEATH SQUAD" ACTIVITIES APPEAR TO HAVE, AT THE LEAST, DROPPED SHARPLY FROM THEIR HEIGHT SOME YEARS AGO. THE CORE PROBLEM OF ARBITRARY ARREST AND TORTURE SEEMS ALSO TO HAVE SHOWN A DEGREE OF IMPROVEMENT, BUT ABUSES HAVE CONTINUED. IN PART THIS IS DUE TO THE ABILITY OF MIDDLE AND LOWER ECHELONS OF THE SECURITY APPARATUS IN SOME AREAS TO REMAIN INSULATED FROM CONTROL FROM THE TOP. THE PRESIDENT HAS REVEALED A TRIE XEOBET U#CONTROL

OF THAT APPARATUS AND PLACE IT IN CIVILIAN HANDS. THE ACTIVE ESPOUSAL OF THE HUMAN-RIGHTS CAUSE BY THE
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OPPOSITION MDB, HOWEVER, AND INDICATIONS OF MOUNTING RESISTANCE

TO "DECOMPRESSION" ON THE PART OF CONSERVATIVE MILITARY ELEMENTS, HAVE POSED A CHALLENGE TO THIS POLICY AND HAVE BROUGHT THE ISSUE OF HUMAN RIGHTS INTO A CENTRAL POSITION WITHIN THE BROADER QUESTION OF DECOMPRESSION. IT IS, FINALLY, THE GOVERNMENT'S ABILITY (OR INABILITY) TO HANDLE CONSERVATIVE MILITARY RESISTANCE WHICH WILL DECIDE THE FATE OF BOTH DECOMPRESSION IN GENERAL AND HUMAN RIGHTS IN PARTICULAR. END SUMMARY

1. THE JURIDICAL SITUATION. BRASILIA 2689 (APRIL 1974) REPORTED ON THE JURIDICAL SITUATION REGARDING HUMAN RIGHTS. SEE ALSO RIO DE JANEIRO A-19 (FEBRUARY 1972) ON THE NATIONAL SECURITY LAW. IN ADDITION, AMNESTY INTERNATIONAL'S REPORT ON ALLEGATIONS OF TORTURE IN BRAZIL INCLUDES CONSIDERABLE MATERIAL ON BRAZIL'S LAW. BRIEFLY, THE BRAZILIAN CONSTITUTION PROVIDES SUCH HUMAN RIGHTS AS EQUALITY BEFORE THE LAW, FREEDOM OF CONSCIENCE, FREEDOM OF EXPRESSION OF POLITICAL OR PHILOSOPHICAL CONVICTION, INVIOABILITY OF THE HOME, FREEDOM OF ARBITRARY ARREST, ASSURANCE OF FULL DEFENSE, HABEAS CORPUS, FREEDOM OF PEACEFUL ASSEMBLY, ETC. ON THE OTHER HAND, THE NATIONAL SECURITY LAW AND INSTITUTIONAL ACT NO. 5 GIVE THE EXECUTIVE BROAD POWERS RANGING FROM THE SUSPENSION OF HABEAS CORPUS TO THE CLOSING OF CONGRESS. REFERENCE IS ALSO DRAWN TO RIO DE JANEIRO'S A-21 OF JANUARY 17, 1973, REGARDING THE LAW ON EXPULSION OR DEPORTATION, WHICH PERMITS A FOREIGNER TO BE EXPELLED BEFORE COMING TO TRIAL AND THUS BARRED FROM CLEARING HIMSELF.

2. THE RECORD. THERE CAN BE NO DISPUTE ABOUT THE REVOLUTION'S POOR RECORD: IN THE YEARS FOLLOWING 1964, CONGRESS WAS CLOSED, POLITICAL PARTIES BANNED, ELECTORAL MANDATES VOIDED, LABOR UNIONS INTERVENED, THE MEDIA CENSORED, PETTY CRIMINALS AND OTHER "MARGINALS" SUMMARILY KILLED BY "DEATH SQUADS", AND A SIGNIFICANT NUMBER OF CITIZENS DETAINED WITHOUT WARRANTS, HELD INCOMMUNICADO, TORTURED, AND SOMETIMES KILLED. SOME OF THESE ACTIONS, SUCH AS THE CLOSING OF THE CONGRESS, CASSATIONS, AND LABOR INTERVENTIONS, WERE CARRIED OUT OVERTLY AS PART OF THE REVOLUTION'S DRIVE TO ELIMINATE CORRUPTION AND SUBVERSION AND GENERALLY TO "CLEANSE" POLITICS IN BRAZIL. BRASILIA 2689 (APRIL 1974) INCLUDES A REHEARSAL OF THE OFFICIAL GOB POSITION REGARDING THE ANTI-SUBVERSION EFFORT AND ARBITRARY ARREST AND TORTURE, WHICH ARGUES THAT EFFECTIVE MEASURES WERE NEEDED TO FIGHT SUBVERSION, CONFIDENTIAL

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EXCESSES OCCURRED BUT ACTION WAS TAKEN AGAINST THEM, AND THE SITUATION HAS IMPROVED. WITH REGARD TO THE PAST RECORD ON TORTURE SPECIFICALLY, THERE IS OBVIOUSLY NO WAY OF OBTAINING FULLY CONFIRMED INFORMATION ON INDIVIDUAL CASES. SUCH INFORMATION AS WE HAVE OBTAINED IS GENERALLY AVAILABLE IN WASHINGTON AS WELL. OF THE MANY SPECIFIC CASES OF TORTURE UP TO 1971 CITED IN THE PUBLISHED MATERIAL FORWARDED WITH REFERENCE (C), WE HAVE INFORMATION TENDING TO CONFIRM SOME; NUMEROUS OTHER CASES ON

WHICH WE HAVE NO INFORMATION DOUBTLESS OCCURRED.

3. RECENT DEVELOPMENTS. AS BRASILIA'S 2689 NOTED, THE SUCCESS OF THE SECURITY FORCES IN RECENT YEARS IN REDUCING THE SECURITY THREAT AND THE CONSEQUENT PHASE-DOWN IN THE ANTI-SUBVERSION CAMPAIGN PRODUCED A DECLINE IN CHARGES OF TORTURE. MORE RECENTLY, THE FIRST YEAR IN OFFICE OF PRESIDENT ERNESTO GEISEL HAS BEEN ONE OF IMPROVEMENT IN VARIOUS HUMAN-RIGHTS AREAS. REFERENCE (B) NOTES THE IMPROVEMENT IN THE POLITICAL AREA, INCLUDING THE ADMINISTRATION'S EFFORTS TO BROADEN THE DIALOGUE WITH SUCH PREVIOUSLY DISAFFECTED GROUPS AS THE CHURCH AND STUDENTS, AND THE GAINS OF THE OPPOSITION MDB IN THE NOVEMBER 1974 CONGRESSIONAL ELECTIONS (WHICH FOLLOWED A CAMPAIGN WHICH SURPRISED OBSERVERS WITH ITS OPENNESS). INDEED, THERE IS A WIDESPREAD CONSENSUS AMONG OBSERVERS (INCLUDING LONG-TIME CRITICS OF THE REGIME) BOTH IN BRASILIA AND ELSEWHERE IN BRAZIL (AS REPORTED BY OUR CONSTITUENT POSTS) THAT THE GEISEL ADMINISTRATION IS COMMITTED TO DECOMPRESSION, AND HAS BEEN MAKING GOOD, HOWEVER CAUTIOUSLY, ON THAT COMMITMENT. WITH REGARD TO SPECIFIC AREAS:

A. PRESS CENSORSHIP. REFERENCE (B) REVIEWED THE PROGRESS MADE IN THIS AREA, INCLUDING THE ELIMINATION OF PRIOR CENSORSHIP FROM THE PRESTIGIOUS O ESTADO DE SAO PAULO. SINCE THEN, LEGAL ACTION HAS BEEN BROUGHT AGAINST THE JORNAL DE BRASILIA FOR PRINTING MATERIAL DEEMED "CALUMNIOUS AND DEFAMATORY" TO SECURITY ORGANS (SEE BRASILIA 1813), BUT THE OUTCOME OF THE CASE IS IN DOUBT, AND THE EPISODE CAUSED LITTLE STIR HERE, EVEN AMONG OTHER JOURNALISTS. FURTHERMORE, THE GENERAL SUBJECT OF THE JORNAL'S PIECE, ALLEGATIONS OF ARBITRARY ARREST AND TORTURE OF PRISONERS, CONTINUES TO BE TREATED EXTENSIVELY IN BRAZILIAN PAPERS. MORE RECENTLY, PRIOR CENSORSHIP WAS LIFTED FROM O PASQUIM, A WEEKLY KNOWN FOR ITS IRREVERENT SATIRICAL BARBS, ALTHOUGH THE FIRST UNCENSORED ISSUE HAS BEEN SEIZED BY POLICE, REPORTEDLY ON GROUNDS OF OBSCENITY. ONLY THREE PERIODICALS, VEJA, TRIBUNA DA

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IMPrensa, AND OPINIAO, ARE STILL SUBJECT TO PRIOR CENSORSHIP.

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B. MISTREATMENT OF INDIANS. AS BRAZIL GROWS AND DEVELOPS AND MODERNIZES, INCREASED CONTACT BETWEEN MODERN AND TRADITIONAL SOCIETIES WILL OCCUR, OFTEN WITH LAMENTABLE EFFECTS ON THE TRADITIONAL SOCIETIES. MOVING INDIANS ONTO RESERVATIONS IS ONE OBVIOUS WAY OF PROTECTING THEIR TRADITIONS, AND THIS IS DONE IN BRAZIL, BUT AS WE KNOW FROM OUR OWN EXPERIENCE, IT IS OFTEN A FAR FROM PERFECT SOLUTION. INDEED, SOME OF BRAZIL'S MOST KNOWLEDGEABLE AND CONCERNED PEOPLE ARE SHARPLY CRITICAL OF THIS "ANIMALS IN A ZOO" APPROACH. FUNAI, THE GOB'S INDIAN AGENCY, COULD STAND IMPROVEMENT IN BOTH ITS BUDGET AND IN THE OVERALL CALIBER OF ITS PERSONNEL: INSTANCES OF MISDEED HAVE OCCURRED, BUT HAVE ALSO BEEN REPORTED IN THE PRESS AND HAVE GENERALLY BEEN FOLLOWED BY CORRECTIVE ACTION. AS EVIDENCE OF RECENT IMPROVEMENT, AMCONSUL BELEM HAS NOTED INCREASING CONTROL OVER ACCESS TO INDIAN AREAS AND THE HALTING OF FLIGHTS TO THOSE AREAS DURING OUTBREAKS OF DISEASE.

C. MURDERS BY "DEATH SQUADS". REFERENCE (B) NOTED THAT THESE UNOFFICIAL POLICE ACTIONS AGAINST CRIMINAL ELEMENTS HAVE, AT THE LEAST, DROPPED SHARPLY FROM THEIR HEIGHT SOME YEARS AGO. WITH SPECIFIC REFERENCE TO THE AMNESTY INTERNATIONAL REPORT (PAGE 28) ON "DEATH SQUAD" ACTIVITIES IN BAHIA, OUR CONSUL THERE REPORTED THAT THE LOCAL SQUAD WAS BROKEN UP THROUGH THE EFFORTS OF THE FEDERAL POLICE AND OTHER LAW ENFORCEMENT ENTITIES. ITS MEMBERS ARE PERIODICALLY ON PUBLIC TRIAL, AND MOST OF THEM HAVE BEEN CONVICTED FOR ONE CRIME OR ANOTHER. NONE OF THE GROUP RETAINS ANY POSITION
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IN THE POLICE. CONGEN RIO REPORTED THAT OCCASIONAL KILLINGS OF HARDENED CRIMINALS WHILE ALLEGEDLY ESCAPING ARE STILL OCCURRING, ADDING THAT ACCORDING TO KNOWLEDGEABLE CRIMINAL LAWYERS, THIS KIND OF KILLING IS UNDERTAKEN AT A LOW LEVEL WITHIN THE POLICE ORGANIZATIONS, WITHOUT THE APPROVAL OF MIDDLE OR SENIOR LEVELS, WHO NEVERTHELESS GENERALLY DO NOT INVESTIGATE THEM UNLESS UNDER PRESSURE FROM THE STATE OR FEDERAL GOVERNMENT. WITH SEVERAL SAO PAULO POLICE OFFICIALS FACING MURDER TRIALS THERE, REPORTED CONGEN

SAO PAULO, THE "DEATH SQUAD" THERE IS CURRENTLY INACTIVE.

D. REPRESSION OF THE LABOR MOVEMENT. THE TIGHT LID ON LABOR UNION ACTIVITIES HAS SLIGHTLY RELAXED, WITH LABOR MINISTER (AND FORMER CONGRESSMAN)ARNALDO PRIETO MOVING QUIETLY, OVER THE PAST SIX MONTHS, TO REMOVE GOVERNMENT INTERVENTORS FROM ABOUT ONE-THIRD OF BRAZIL'S UNIONS, INCLUDING SUCH KEY UNIONS AS RIO DE JANEIRO'S METALWORKERS AND BANK WORKERS. MORE RECENTLY, THE GOVERNMENT HAS ANNOUNCED ITS INTENTION OF ENDING ALL INTERVENTIONS. AS IN OTHER AREAS, HOWEVER, THE PROGRESS HAS NOT BEEN UNMITIGATED. THE HOLDING OF FREE ELECTIONS IN THE METALWORKERS' UNION, FOR EXAMPLE, RESULTED IN A VICTORY FOR THE ANTI-GOVERNMENT SLATE. SUBSEQUENTLY, AS THE EMBASSY LABOR ATTACHE REPORTED FROM RIO, THE GOVERNMENT MOVED TO BLOCK THE ACCESSION TO OFFICE OF SOME KEY MEMBERS OF THAT SLATE, AND WHILE THE OFFICIAL ALLEGATIONS OF CORRUPTION ON THE PART OF THOSE MEMBERS MAY NOT BE UNFOUNDED, IT IS ALSO TRUE THAT THOSE SAME MEMBERS ARE TRADE-UNION MILITANTS WHO HAVE CRITICIZED OFFICIAL WAGE POLICY AND CALLED FOR HIGHER WAGES THAN THOSE PERMITTED. THERE HAS BEEN NO FORWARD MOVEMENT ON COLLECTIVE BARGAINING OR ON THE RIGHT TO ORGANIZE FREELY.

4. ARBITRARY ARREST AND TORTURE. AS NOTED IN REFERENCE (B), THE SITUATION IN THIS REGARD, AS IN OTHERS, APPEARS TO HAVE IMPROVED. DEPUTY THALES RAMALHO, NATIONAL SECRETARY GENERAL OF THE OPPOSITION MDB AND A LEADING PARTY SPOKESMAN ON HUMAN RIGHTS, TOLD AMCONSUL RECIFE LAST NOVEMBER THAT THE NUMBER OF CASES HAD DROPPED RATHER DRAMATICALLY COMPARED WITH PREVIOUS YEARS, AND THAT THE GENERAL NATIONWIDE TREND WAS DOWNWARD FROM 1972 THROUGH 1974, WITH THE BIGGEST DROP OCCURRING DURING THE LAST YEAR. AS REFERENCE (B) ALSO NOTED, HOWEVER, ABUSES HAVE CONTINUED. THE LATEST "SWEEP" OF ARRESTS, INVOLVING A LARGE NUMBER OF PEOPLE IN RIO, SAO PAULO, AND PORTO ALEGRE, HAS BEEN THE RESULT OF INVESTIGATIONS FLOWING FROM THE DISCOVERY OF A COMMUNIST PARTY (PCB)
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PRINTING PRESS (BRASILIA 944). CONGEN RIO REPORTED THAT ACCORDING TO CRIMINAL LAWYERS THERE, THOSE ARRESTED WERE BEING TORTURED, AND UNDER MILITARY AUSPICES, ALTHOUGH EFFORTS WERE MADE TO MAKE IT APPEAR THAT THE CIVILIAN POLICE WERE HANDLING THE CASES. ACCORDING TO CONGEN SAO PAULO, THE SAO PAULO COMMITTEE FOR PEACE AND JUSTICE HAS RECEIVED COMPLAINTS OF RECENT TORTURE BY MILITARY ELEMENTS OF PEOPLE ARRESTED IN THIS ROUNDUP, AND OVER THE PAST SEVERAL MONTHS SUSPECTED PCB MEMBERS HAVE BEEN SEVERELY TORTURED THERE. ON THE OTHER HAND, THE POLITICAL POLICE (DEOPS) IN SAO PAULO HAS EMBARKED ON A NEW POLICY OF MORE HUMANE TREATMENT OF ITS PRISONERS, ACCORDING TO CHURCH SOURCES, WHO SAY THAT POLITICAL PRISONERS ARE NO LONGER BEING TORTURED AT DEOPS. FURTHERMORE, IN MANY OF THE CASES OF ARREST RESULTING FROM THE PCB PRINTING PRESS DISCOVERY, JUDICIAL ORDERS HAVE BEEN OBTAINED, ALTHOUGH SOMETIMES BELATEDLY. CONGEN SAO PAULO ALSO REPORTED INFORMATION THAT SOME TIME OVER THE

PAST YEAR A NOTORIOUS TORTURER AND MEMBERS OF HIS INTERROGATION SQUAD WERE ALL TRANSFERRED TO OTHER UNITS, SUPPOSEDLY IN A DELIBERATE MOVE ON THE PART OF THE ARMY TO REMOVE FROM SAO PAULO THOSE OFFICERS MOST IDENTIFIED WITH THE TORTURE OF POLITICAL PRISONERS IN THE PAST. AS HAS BECOME TRUE REGARDING HUMAN RIGHTS IN GENERAL, PRESS TREATMENT OF THE PRINTING PRESS ARRESTS HAS BEEN QUITE OPEN, AND HAS INCLUDED LISTS OF NAMES. DESPITE THE PUBLIC TREATMENT, HOWEVER, POLITICAL CIRCLES HAVE NOT REACTED OPENLY TO ANY SIGNIFICANT DEGREE TO QUESTION THESE ARRESTS, A FACT WHICH DOUBTLESS REFLECTS THEIR GENERAL ANTI-COMMUNIST BENT AS WELL AS A DESIRE TO AVOID TAIN BY ASSOCIATION. THE GENERAL SUBJECT OF HUMAN RIGHTS AS A POLITICAL ISSUE, ON THE OTHER HAND, HAS BECOME INCREASINGLY ACTIVE AND COMPLEX.

5. THE POLITICAL DIMENSION. REFERENCE (B) REPORTED THAT THE ISSUE OF HUMAN RIGHTS HAD BEEN FULLY JOINTED IN THE POLITICAL ARENA AND IN THE PRESS, NOW FREER OF CENSORSHIP RESTRAINTS. THE WEEKS SINCE THEN, AND ESPECIALLY SINCE THE NEW CONGRESS OPENED, HAVE SEEN THE ISSUE BECOME PART OF THE BROAD AND NEWLY INTENSIFIED STRUGGLE REGARDING DECOMPRESSION. THE MDB, WHILE CONSCIOUS AS EVER OF THE RISKS OF PUSHING TOO HARD AND THUS BRINGING ABOUT "DECOMPRESSION", HAS NEVERTHELESS SHOWN ITSELF BUOYED BY ITS NOVEMBER SHOWING, AND HAS ALSO DECLARED ITSELF BOUND BY PRINCIPLE TO HONOR THE MANDATE GIVEN IT AT THAT TIME BY FOLLOWING THROUGH ON ITS CAMPAIGN TALK. ARENA HAS FOUGHT BACK, MOVING TO BLOCK THE MDB EFFORT TO CONVOKE JUSTICE MINISTER FALCAO

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FOR FURTHER EXPLORATION OF THE "MISSING PERSONS" ISSUE (SEE REFERENCE (B)), TO THROTTLE MDB HOPES REGARDING A PARLIAMENTARY COMMISSION OF INQUIRY ON HUMAN RIGHTS, AND MORE GENERALLY TO QUELL THE MDB SURGE. THE GOVERNMENT HAS STOOD BY ITS COMMITMENT TO DECOMPRESSION, AND VARIOUS SPKESMEN HAVE RECENTLY SPECIFICALLY REAFFIRMED IT. HOWEVER, THE FIRMNESS WITH WHICH THE GOVERNMENT PARTY HAS MOVED TO THROTTLE MDB EFFORTS TO INVESTIGATE THE RECORD ON HUMAN RIGHTS SUGGESTES THAT PRESIDENT GEISEL IS FINDING IT INCREASINGLY NECESSARY TO TAKE INTO ACCOUNT THE INFLUENCE OF THE HARDLINE MILITARY FACTION IN PLANNING HIS MOVES IN THIS SECTOR. THIS PROBLEM IS DISCUSSED IN DETAIL IN BRASILIA 2322. IT IS, FINALLY, THE GOVERNMENT'S ABILITY (OR INABILITY) TO HANDLE THAT ELEMENT WHICH WILL DECIDE THE FATE OF BOTH POLITICAL DECOMPRESSION IN GENERAL AND HUMAN RIGHTS IN PARTICULAR.

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